

60,130-1407; 02mra0185

REMARKS

Claims 1-19 are presently pending in the application. Claims 1, 4, 14 and 18 are in independent form. Claim 4 has been amended to independent form by this amendment. New claim 19 has been introduced. Paragraph 34 has been amended to correct a reference numeral.

Response to §112 rejections

Claims 1-18 were rejected under §112 for lack of antecedent basis for "said gear." Antecedent basis can be found at line 2 in each of claims 1, 14 and 18, which recite "a gear disposed within said opening." Accordingly, no amendment is believed required to overcome the rejection. If the Examiner still believes the rejection is proper he is urged to telephone Applicant's representative. Claims 4-17 were otherwise indicated as allowable.

Response to §102 rejections

Claims 1, 3 and 18 were rejected under §102(b) over Lavelly. Regarding claim 1, Lavelly does not disclose an actuator including an inner surface having complementary helical teeth engaging helical teeth of a worm. The worm end portion and inner surface of Lavelly have complementary straight teeth. Accordingly, claim 1 is not anticipated. Lavelly cannot anticipate claim 18 for the same reasons explained below relative to Lissau. Namely, Lavelly does not disclose a slot that defines different adjustment positions.

Claim 18 was rejected under §102(b) over Lissau. Lissau does not anticipate claim 18. Claim 18 requires the actuator to have an end including a slot. This slot receives a pin that secures a rod to the actuator. The slot has opposing terminal ends defining non-adjustment and adjustment positions. Lissau does not disclose a slot that defines different adjustment positions.

Therefore, these rejections should be withdrawn.

Response to §103 rejections

Claim 2 was rejected under §103 over Lavelly alone. Claim 2 recites the use of plastic for the actuator, which is not taught by Lavelly. The Examiner argues that using plastic is obvious "since it is held to be within the general skill of a worker in the art to select a known material on

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the basis of the suitability for the intended use as a matter of obvious design choice." The Examiner relies upon *In re Leshin* for support of this proposition. However, the actuator in the claimed environment is not a part one would typically believe should be made of plastic. The claim is not obvious.

Moreover, the Examiner has not met the burden of establishing a prima facie case of obviousness. The Examiner cannot sidestep this burden and must provide a suggestion or motivation to modify the base reference, Lavelly (see, e.g., MPEP 2143.01 and MPEP 2143.03).

Regarding *In re Leshin*, that case does not stand for the proposition that the use of a known material is automatically obvious. Apparently, Leshin was attempting to claim a plastic container, however, the use of plastic for the claimed container was shown in a prior art Anderson reference. The court held that the plastic Leshin was attempting to claim would have been obvious since one of ordinary skill, being appraised of the purpose, would select that plastic since plastic was already used for the claimed component.

Applicant's claim 2 is distinguishable from *In re Leshin*. Here it is not known to use plastic for the actuator. Furthermore, the claimed material is not a species of known material already used for the claimed component. As a result, there is no motivation to one of ordinary skill to modify Lavelly to use plastic.

New claim 19 requires a plastic biasing member that is provided by the actuator, which is supported by paragraph 37 of the Specification.

Applicant respectfully solicits allowance of these claims. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,



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